

REMARKS

Claim 33 has been amended into independent form to include most of the limitations of independent claim 31. Claims 31, 32 and 34 have not been amended. Claims 31-34 are still pending. Examination and allowance of the pending claims is respectfully requested.

Claims 31-34 stand rejected under the judicially created doctrine of double patenting as being unpatentable over claim 15 of USP 6,620,016 and claims 17-19 of Serial No. 10/693,157. Although Applicant does not agree with the double patenting rejections, Applicant will submit a Terminal Disclaimer after the other substantive rejections have been overcome.

Claims 31-32 stand rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,613,890 to DeMars ("DeMars '890"). This rejection is respectfully traversed.

Independent claim 31 has not been amended. Claim 31 recites that pressure is not applied to the tubing by the pressure roller when the trigger mechanism is not actuated. In contrast, column 5, lines 15-21 of DeMars '890 states:

"Mounted on the elongated spur gear 90 is a pair of rollers 94.

The rollers 94 are mounted within peristaltic pump chamber 96. Peristaltic pump chamber 96 is fixed to housing 12. A portion of a tube 98 is to be located against the wall of the peristaltic pump chamber 96.

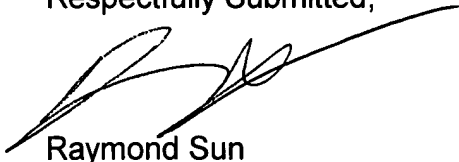
Rotation of the gear 90 causes rollers 94 to pinch off the tube 98 against the wall of the peristaltic pump chamber 96. ..."

This language from DeMars '890 essentially states that the rollers 94 pinch off the tube 98 against the wall of the peristaltic pump chamber 96 (i.e., a tubing) when the gear 90 rotates. This does not state or even imply that "pressure is not applied to the tubing by the pressure roller when the trigger mechanism is not actuated". In fact, the pump system in DeMars '890 is configured such that pressure is always applied to the tubing by the pressure roller regardless of whether the trigger mechanism is actuated. This is shown in FIG. 5, where the rollers 94 are shown as pinching (applying pressure to) the tubing 96 at all times. If these rollers 94 are not always pinching the tubing 96, then the rollers 94 must be moved from a "non-pinching" position to the pinching position shown in FIG. 5 for the liquid 108 to be delivered. However, DeMars '890 is completely silent as to any such deployment or mechanism. Thus, it is respectfully submitted that claim 31 is

allowable over DeMars '890.

Thus, all pending claims are submitted to be allowable over the cited art. The Examiner is encouraged to telephone the undersigned if there are informalities that can be resolved in a phone conversation, or if the Examiner has any ideas or suggestions for further advancing the prosecution of this case.

Respectfully Submitted,



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CERTIFICATE OF MAILING

I hereby certify that this paper and its enclosures are being deposited with the United States Postal service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Date: November 24, 2004

By


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